

limited liability not only to doctors, but also to medical device manufacturers and drug companies. Furthermore, the \$250,000 cap on noneconomic damages included in this bill may often prove too low for many seriously harmed patients. I believe in meaningful and fair medical malpractice reform; but this bill and the others debated on the floor this session simply do not fit that description. For these reasons I would have voted against cloture for S. 2207, which failed to receive the needed 60 votes by 49 to 48.

I was also unable to cast a second cloture vote on a motion to recommit S. 1637, the "Jumpstart our Business Strength (JOBS) Act," a bill to repeal the foreign sales corporation tax regime, and its successor, the extraterritorial income tax regime, that have been found to be an illegal export subsidy by the World Trade Organization. I voted against the first cloture filing on March 24 and, had I been present on April 7, I would also have voted against cloture. The cloture vote failed to meet the 60-vote threshold by 50 to 47. I support many of the provisions of the underlying bill, S. 1637, which provides tax relief to domestic manufacturers, curtails abusive tax shelters, and contains a number of international tax simplification and reform measures.

Cloture would have prevented debate on a number of amendments that deserve to be debated and voted upon. The Senate must renew efforts to bring the FSC/ETI bill to the floor, to pass S. 1637, while at the same time allowing open debate and votes on issues of importance to American employees.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In February 2004, two gay men visiting from Washington State were attacked by four men and one woman outside a popular bar in Government Camp, OR. Investigators believe the two men were attacked because of their sexual orientation and are pursuing leads in the search for the suspects. The five suspects are charged with first-degree intimidation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE IRS TAX GAP

Mr. BAUCUS. Mr. President, in the next week, millions of Americans will do their duty, obey the law, and complete their income tax returns. Although this is clearly one of our citizens' least favorite annual rituals, most taxpayers will do what's right and provide their share of funding to keep our national government running.

But while these honest Americans are doing their part, a number of others are trying to get by without doing theirs. And that's what I would like to talk about this afternoon.

Some call it the "tax gap"—the difference between the amount of taxes that taxpayers actually owe to the Federal Government and the amount of taxes that taxpayers actually pay to the Federal Government.

This is not about raising taxes. This is about enforcing the tax laws on the books. This is about collecting the taxes that are owed to the Treasury under the existing Tax Code.

While most Americans, with quiet patriotism, file their tax returns and pay their taxes on time, too many do not. There are a number of ways that these folks try to skirt the law: Some don't file their returns. Others understate their incomes. Still others take excessive or illegal deductions. And there are those who claim fictitious refunds.

Unfortunately, there is a growing perception among honest taxpayers that a large number of people are cheating the tax collector—and getting away with it. The IRS Oversight Board Annual Survey on Taxpayer Attitudes reported that the proportion of Americans who "completely agree" that it is all Americans' civic duty to pay their fair share of taxes has steadily declined.

In 1999, 81 percent of Americans agreed that it's their duty to pay taxes. In 2002, only 72 agreed with that statement. And last year, that group fell to just 68 percent of the population.

This trend is very disturbing, but it is also very clear. More and more people believe that cheating is acceptable.

As if this public attitude were not disturbing enough, the growing lack of taxpayer compliance jeopardizes the voluntary tax system on which our government depends. American taxpayers who voluntarily pay their fair share of the country's revenue will not support a tax system that tolerates widespread cheating.

Taxpayers expect their Government to ensure that all pay their fair share. Not one dime more, but not one dime less. The millions of honest taxpayers deserve no less.

The National Taxpayer Advocate estimated that the tax gap for 2001 was \$311 billion. But this is based on 16-year-old data from 1988. There is every likelihood that the tax gap is significantly higher. It certainly isn't less.

For the taxable years 2001 to 2003, the cumulative tax gap exceeded a trillion dollars. In other words, if all individ-

uals and corporations fully paid all of their taxes due for the past 3 years, the IRS could collect an additional \$1 trillion.

This huge level of unpaid taxes is harmful to law-abiding Americans and to the economy as a whole. Just as retail stores raise prices for honest shoppers after they lose merchandise due to shoplifting, honest taxpayers pay more to cover those who aren't paying their share.

In terms of the economy, each dollar in unpaid taxes increases the deficit by a dollar. The administration predicts that the deficit will be cut in half in the next 5 years. But since the administration took office, the cumulative IRS tax gap has exceeded \$1 trillion. Let me say that again: \$1 trillion. This is enough to help shore up Social Security, pay for the war in Iraq, ensure that no child is left behind, fix the highways and extend unemployment insurance.

Currently, the overall taxpayer non-compliance rate is 15 percent and growing. The plain fact is that voluntary compliance has been and remains the backbone of our tax system. Our primary mission must be to maintain and enhance the health of that system by encouraging and facilitating voluntary compliance with our tax laws. A 1-percent point swing in voluntary compliance will increase, or decrease, revenues each year by more than \$20 billion.

Our Federal budget has gone from one of the greatest surpluses in its history to the highest deficit ever known—\$478 billion—close to half a trillion dollars in the current fiscal year.

Now more than ever we need a plan of action to close the IRS tax gap. I propose the following:

First, let's make it easier for people to pay their taxes. Our Federal Tax Code and accompanying regulations are more than 54,000 pages long. They are too complex, confusing, and costly to comply with. In addition to making the code simpler for individual taxpayers, simplification would reduce opportunities for dishonesty. Tax shelters develop because sections of the lengthy code are manipulated to achieve unwarranted tax benefits.

That is why I support a broadly based blue ribbon commission that would recommend simplifications for our income tax system that we could act on.

Second, we need better data on non-compliance. To fix a problem, you have to know the facts. I support the National Research Program that would allow us to have a more accurate estimate of the IRS tax gap and should help IRS identify where they should target their enforcement efforts.

Third, the IRS needs to do a better job enforcing our current tax laws. And that may take Congress passing legislation forcing them to take stronger action. Bills such as the good Government tax administration bill would improve efficiency and strengthen safeguards in IRS collection cases. And in